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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAVID J. ALLARD
and ROBERT M. SZABO

Appeal 2010-009630
Application 10/780,098
Technology Center 3600

Before MURRIEL E. CRAWFORD, HUBERT C. LORIN, and BIBHU R.
MOHANTY, *Administrative Patent Judges*.

MOHANTY, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

The Appellants seek our review under 35 U.S.C. § 134 (2002) of the final rejection of claims 1, 3-4, 16-18, 20, 22-24, and 26-27 which are all the claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b) (2002).

SUMMARY OF THE DECISION

We REVERSE.

THE INVENTION

The Appellants' claimed invention is directed a method for permitting a patient to have controlled access to their medical records (Spec. [0007]).

Claim 1, reproduced below with the numbering in brackets added, is representative of the subject matter on appeal.

1. A computer-implemented method of permitting controlled access to medical information of a patient, the method comprising:
 - supplying medical information of the patient to a central repository by the patient and any medical providers who have treated the patient;
 - storing and maintaining the medical information of the patient in the central repository;
 - accessing the medical information by the patient from an access device using a unique patient identifier and a patient PIN;
 - controlling by the patient an authorization and a scope of access to the medical information by modifying an access control list within the patient's profile when the patient is connected to the central repository, wherein the access control list lists each authorized user and the assigned role of each authorized user, wherein the scope of access includes which items of medical information are available to an assigned role and how that information will be viewed;

[1] assigning each authorized user with a unique authorized user ID and an authorized user PIN; [2] and
tracking and notifying the patient of an identity of a user who accessed the medical information, information that was accessed by the user, and when the user accessed the information.

THE REJECTIONS

The Examiner relies upon the following as evidence in support of the rejections:

| | | |
|---------|--------------------|---------------|
| Felsher | US 2002/0010679 A1 | Jan. 24, 2002 |
| Hacker | US 6,998,075 B1 | Jan. 17, 2006 |

Mandl et al, *Public standards and patients' control: how to keep electronic medical records accessible but private*, BMJ, Volume 322, Feb. 3, 2001.

The following rejections are before us for review:

1. Claims 1, 3-4, 20, 22-24, and 26-27 are rejected under 35 U.S.C. § 103(a) as unpatentable over Hacker and Mandl.
2. Claims 16-18 are rejected under 35 U.S.C. § 103(a) as unpatentable over Hacker, Mandl, and Flesher.

THE ISSUES

With regards to claim 1 the issue turns on whether Hacker discloses claim limitation [1]. The remaining claims turn on a similar issue.

FINDINGS OF FACT

We find the following enumerated findings of fact (FF) are supported at least by a preponderance of the evidence:¹

FF1. Hacker has disclosed a patient controlled medical information system and method (Title).

FF2. Hacker at Col. 7:43-66 does not disclose “assigning each authorized user with a unique authorized user ID and an authorized user PIN” where the user is authorized to access the patients’ medical records.

ANALYSIS

The Appellants argue that the rejection of claim 1 is improper because Hacker does not disclose claim limitation [1] (Br. 7-9, Reply Br. 2, 4).

In contrast, the Examiner has determined that Hacker discloses the cited claimed limitation at Col. 7:43-66 (Ans. 4, 7-8). The Examiner has determined that the claim limitations do not differentiate between the “patient identifier” and “authorized user ID” (Ans. 7).

We agree with the Appellants. Claim 1 requires both a: 1) “unique patient identifier and a patient PIN”, and 2) “a unique authorized user ID and an authorized user PIN” for each authorized user who accesses the medical records. Thus, the claims do require that the user accessing the patients’ medical records is assigned a “user ID” and “user PIN” that is different from the “patient identifier” or “patient PIN”. The Examiner has determined that Hacker discloses claim limitation [1] at Col. 7:43-66. Hacker at Col. 7:43-66 does not disclose claim limitation [1] (FF2) as asserted and the rejection

¹ See *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Patent Office).

of claim 1 is therefore not sustained. While Hacker at Col. 7:43-66 discloses patient identification and access and the use of passphrases it is not specifically disclosed that a user accessing the patients records is granted a “user ID” or “user PIN” as claimed. The remaining claims contain a similar limitation and the rejection of these claims is not sustained for these same reasons.

CONCLUSIONS OF LAW

We conclude that Appellants have shown that the Examiner erred in rejecting: claims 1, 3-4, 16-18, 20, 22-24, and 26-27 under 35 U.S.C. § 103(a) as unpatentable over Felsher, Hacker, and Mandl; and claims 16-18 under 35 U.S.C. § 103(a) as unpatentable over Hacker, Mandl, and Flesher.

DECISION

The Examiner’s rejection of claims 1, 3-4, 16-18, 20, 22-24, and 26-27 is reversed.

REVERSED

MP